

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Case Management Subcommittee, Hon. Arthur E. Wallace, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: October 1, 2004

SUBJECT: *Exemptions From the Enforcement of Judgments* (revise form EJ-155)
(Action Required)

Issue Statement

The *Exemptions From the Enforcement of Judgments* (form EJ-155) has some outdated references and technical defects that should be corrected.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2005, revise form EJ-155 to correct outdated references and technical defects.

Revised form EJ-155 is attached at pages 3 and 4.

Rationale for Recommendation

Last year, Assembly Bill 182 amended Code of Civil Procedure section 681.030 to require that form EJ-155 contain information on how to obtain the new list of the dollar amounts of current exemptions from enforcement of judgments that is required by Code of Civil Procedure section 703.150(d). To implement this legislation, the Civil and Small Claims Advisory Committee recommended that (1) the Judicial Council revise form EJ-155 to conform to the new statute effective July 1, 2004, without prior circulation for public comment; and (2) that the Administrative Office of the Courts (AOC) be authorized to develop and update a list of current exemption amounts.

The council revised form EJ-155 and authorized the AOC to develop and update the list of exemption amounts. The revised form and list were circulated for comment during the spring 2004 cycle to determine whether any revisions should be made to the form or list,

effective January 1, 2005. Based on the comments, form EJ-155 should be revised to correct several technical problems.

Specifically, the words “Except as otherwise provided” should be added at the beginning of the last sentence in the notice box on page 1 of the form. The sentence states that the dollar amounts of the exemptions will be adjusted at three-year intervals. The additional phrase reflects that, by statute, there is a \$300 exemption for inmate trust accounts (on cases involving judgments for a restitution fine or order) that is not subject to adjustment under Code of Civil Procedure section 703.150. (See Code Civ. Proc., § 704.90(b).)

The item listing credit union shares on page 1 should be deleted because the statutory exemption in Financial Code section 14864 has been repealed.¹ The item referring to “Soldiers and Sailors Property” has been changed to “Servicemembers Property” to reflect recent changes in federal law.²

Eight lines of repeated information on page 2 of the current form should be eliminated. Various other minor typographical and formatting problems on form EJ-155 also should be corrected.

The comments did not identify any problems with the list of dollar amounts of exemptions that need to be corrected; hence, the list will not be further revised at this time.

Alternative Actions Considered

The form might be left unchanged; however, based on the public comments, the committee concluded that it would be preferable if revisions were made.

Comments From Interested Parties

The form and list were circulated in the spring of 2004. A total of five comments were received. The commentators included two attorneys, an analyst with the California Department of Child Support Services, a local bar association, and the Committee on Administration of Justice of the State Bar (CAJ). A chart summarizing the comments and the committee’s responses is attached at pages 5–7.

Comments on the form and list were generally favorable. The CAJ stated: “It would be hard to make the form any clearer.” The commentators suggested various technical changes to the form. The committee agreed with most of the proposed changes, which were discussed above under the rationale for the recommendations.

Implementation Requirements and Costs

Some incidental costs will be incurred in substituting corrected form EJ-155 for the current version.

¹ Repealed by Stats. 2000, c. 411 (A.B. 2503), § 5, effective September 12, 2000.

² See Servicemembers Civil Relief Act, Public Law 108–189, 108th Congress, sec. 203.

EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS

The following is a list of assets that may be exempt from levy on a judgment.

Exemptions are found in the United States Code (**USC**) and in the California codes, primarily the Code of Civil Procedure (**CCP**).

Because of periodic changes in the law, the list may not include all exemptions that apply in your case. The exemptions may not apply in full or under all circumstances. Some are not available after a certain period of time. You or your attorney should read the statutes.

If you believe the assets that are being levied on are exempt, file a claim of exemption form, which you can get from the levying officer.

AMOUNT OF EXEMPTIONS: A list of the amounts of exemptions from a judgment under CCP § 703.150 starting on April 1, 2004, is available from the clerk of the court and on the California Courts Web site at www.courtinfo.ca.gov. Except as otherwise provided, the dollar amounts of the exemptions will be adjusted thereafter at three-year intervals on April 1, and the adjusted amounts will become effective immediately on that date.

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
Accounts (<i>See Deposit Accounts</i>)		Benefit Payments (<i>cont.</i>)	
Appliances	CCP § 704.020	Relocation Benefits	CCP § 704.180
Art and Heirlooms	CCP § 704.040	Retirement Benefits and Contributions:	
Automobiles	CCP § 704.010	Private	CCP § 704.115
BART District Benefits	CCP § 704.110	Public	CCP § 704.110
	Pub Util C § 28896	Segregated Benefit Funds	Ins C § 10498.5
Benefit Payments:		Social Security Benefits	42 USC § 407
BART District Benefits	CCP § 704.110	Strike Benefits	CCP § 704.120
	Pub Util C § 28896	Transit District Retirement Benefits (Alameda and Contra Costa Counties)	CCP § 704.110
Charity	CCP § 704.170	Unemployment Benefits and Contributions	Pub Util C § 25337
Civil Service Retirement Benefits (Federal)	5 USC § 8346	Veterans Benefits	CCP § 704.120
County Employees Retirement Benefits	CCP § 704.110	Veterans Medal of Honor Benefits	38 USC § 3101
	Govt C § 31452	Welfare Payments	38 USC § 562
Disability Insurance Benefits	CCP § 704.130		CCP § 704.170
Fire Service Retirement Benefits	CCP § 704.110	Workers Compensation	Welf & I C § 17409
	Govt C § 32210	Boats	CCP § 704.160
Fraternal Organization Funds Benefits	CCP § 704.130	Books	CCP § 704.060
	CCP § 704.170	Building Materials (Residential)	CCP § 704.710
Health Insurance Benefits	CCP § 704.130	Business:	CCP § 704.060
Irrigation System Retirement Benefits	CCP § 704.110	Licenses	CCP § 695.060
Judges Survivors Benefits (Federal)	28 USC § 376(n)	Tools of Trade	CCP § 699.720(a)(1)
Legislators Retirement Benefits	CCP § 704.110	Cars and Trucks (including proceeds)	CCP § 704.060
	Govt C § 9359.3	Cash	CCP § 704.070
Life Insurance Benefits:		Cemeteries:	
Group	CCP § 704.100	Land Proceeds	Health & SC § 7925
Individual	CCP § 704.100	Plots	CCP § 704.200
Lighthouse Keepers Widows Benefits	33 USC § 775	Charity	CCP § 704.170
Longshore & Harbor Workers Compensation or Benefits	33 USC § 916	Claims, Actions and Awards:	
Military Benefits:		Personal Injury	CCP § 704.140
Retirement	10 USC § 1440	Worker's Compensation	CCP § 704.160
Survivors	10 USC § 1450	Wrongful Death	CCP § 704.150
Municipal Utility District Retirement Benefits	CCP § 704.110	Clothing	CCP § 704.020
	Pub Util C § 12337	Condemnation Proceeds	CCP § 704.720(b)
Peace Officers Retirement Benefits	CCP § 704.110	County Employees Retirement Benefits	CCP § 704.110
	Govt C § 31913		Govt C § 31452
Pension Plans (and Death Benefits):		Damages (<i>See Personal Injury and Wrongful Death</i>)	
Private	CCP § 704.115	Deposit Accounts:	
Public	CCP § 704.110	Escrow or Trust Funds	Fin C § 17410
Public Assistance	CCP § 704.170	Social Security Direct Deposits	CCP § 704.080
	Welf & I C § 17409		

EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS

(Continued)

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
Direct Deposit Account:		Municipal Utility District	
Social Security	CCP § 704.080	Retirement Benefits	CCP § 704.110
Disability Insurance Benefits	CCP § 704.130	Pub Util C § 12337	
Dwelling House	CCP § 704.740	Peace Officers Retirement	
Earnings	CCP § 704.070	Benefits	CCP § 704.110
	CCP § 706.050	Pension Plans:	Govt C § 31913
	15 USC § 1673(a)	Private	CCP § 704.115
Educational Grant	Ed C § 21116	Public	CCP § 704.110
Employment Bonds	Lab C § 404	Personal Effects	CCP § 704.020
Financial Assistance:		Personal Injury Actions	
Charity	CCP § 704.170	or Damages	CCP § 704.140
Public Assistance	CCP § 704.170	Prisoner's Funds	CCP § 704.090
	Welf & I C § 17409	Property Not Subject to	
Student Aid	CCP § 704.190	Enforcement of Money	
Welfare (See Public		Judgments	CCP § 704.210
Assistance)		Prosthetic and Orthopedic	
Fire Service Retirement	CCP § 704.110	Devices	CCP § 704.050
	Govt C § 32210	Provisions (for Residence)	CCP § 704.020
Fraternal Organizations		Public Assistance	CCP § 704.170
Funds and Benefits	CCP § 704.130		Welf & I C § 17409
	CCP § 704.170	Public Employees:	
Fuel for Residence	CCP § 704.020	Death Benefits	CCP § 704.110
Furniture	CCP § 704.020	Pension	CCP § 704.110
General Assignment for		Retirement Benefits	CCP § 704.110
Benefit of Creditors	CCP § 1801	Vacation Credits	CCP § 704.113
Health Aids	CCP § 704.050	Railroad Retirement Benefits	45 USC § 2281
Health Insurance Benefits	CCP § 704.130	Railroad Unemployment	
Home:		Insurance	45 USC § 352(e)
Building Materials	CCP § 704.030	Relocation Benefits	CCP § 704.180
Dwelling House	CCP § 704.740	Retirement Benefits and	
Homestead	CCP § 704.720	Contributions:	
	CCP § 704.730	Private	CCP § 704.115
Housetrailer	CCP § 704.710	Public	CCP § 704.110
Mobilehome	CCP § 704.710		Ins C § 10498.5
Homestead	CCP § 704.720	Segregated Benefit Funds	Ins C § 10498.6
	CCP § 704.730	Servicemembers Property	50 USC § 523(b)
Household Furnishings	CCP § 704.020	Social Security	42 USC § 407
Insurance:		Social Security Direct Deposit	
Disability Insurance	CCP § 704.130	Account	CCP § 704.080
Fraternal Benefit Society	CCP § 704.110	Strike Benefits	CCP § 704.120
Group Life	CCP § 704.100	Student Aid	CCP § 704.190
Health Insurance Benefits	CCP § 704.130	Tools of Trade	CCP § 704.060
Individual	CCP § 704.100	Transit District Retirement	
Insurance Proceeds—		Benefits (Alameda and Contra	
Motor Vehicle	CCP § 704.010	Costa Counties)	CCP § 704.110
Irrigation System	CCP § 704.040		Pub Util C § 25337
Retirement Benefits	CCP § 704.110	Travelers Check Sales Proceeds	Fin C § 1875
Jewelry		Unemployment Benefits and	
Judges Survivors Benefits		Contributions	CCP § 704.120
(Federal)	28 USC § 376(n)	Uniforms	CCP § 704.060
Legislators Retirement		Vacation Credits (Public	
Benefits	CCP § 704.110	Employees)	CCP § 704.113
	Govt C § 9359.3	Veterans Benefits	38 USC § 3101
Licenses	CCP § 695.060	Veterans Medal of Honor	
	CCP § 720(a)(1)	Benefits	38 USC § 562
Lighthouse Keepers Widows		Wages	CCP § 704.070
Benefits	33 USC § 775		CCP § 706.050
Longshore and Harbor Workers			CCP § 706.051
Compensation or Benefits	33 USC § 916	Welfare Payments	CCP § 704.170
Military Benefits:			Welf & I C § 17409
Retirement	10 USC § 1440	Workers Compensation	
Survivors	10 USC § 1450	Claims or Awards	CCP § 704.160
Military Personnel—Property	50 USC § 523(b)	Wrongful Death Actions or	
Motor Vehicle (Including		Damages	CCP § 704.150
Proceeds)	CCP § 704.010		
	CCP § 704.060		

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Exemptions From the Enforcement of Judgments (revise form EJ-155)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Committee on Administration of Justice The State Bar of California San Francisco, California	A	Y	The committee on the Administration of Justice (CAJ) supports the proposed revisions to form EJ-155. With the number of exemptions available under both federal and state law, it would be difficult to make the form any clearer. The form is easy to use because it lists the exemptions alphabetically and refers to the code and section numbers where the exemptions are located. The reference to the California Courts Web site is likewise helpful. Finally, the public will know if the form is outdated because it is dated and informs the reader the exemptions will be adjusted every three years.	The committee noted the CAJ's support for the revisions to form EJ-155.
2.	Mr. Dennis K. Cowan Attorney Law Office of Dennis K. Cowan Redding, California	A	N	<p>1. As to the changes in C.C.P., § 703.140 that have already gone into effect April 1, 2004, pursuant to AB 182 and applicable California law regarding the effective date of legislation, how do comments affect them?</p> <p>2. The changes are not yet in Westlaw or in any on-line copy of legislation that I can find. Changes in substantive law, such as the exemption amounts applicable in bankruptcy cases, should be reflected in the California codes, not hidden away in footnotes to statutes (as unfortunately is done in 11 U.S.C. section 522). How will these substantive changes be published?</p>	<p>1. Comments were invited so that members of the public could provide suggestions and input on the revised form and new list of dollar amounts developed to implement the statutory changes.</p> <p>2. Amended Code of Civil Procedure section 681.030 requires form EJ-155 to contain information advising interested persons on how to obtain the list of current amount of exemptions from enforcement of judgments. New Code of Civil Procedure section 703.150 provides that the Judicial Council will publish and update the amounts of the exemptions. The Judicial Council has revised form EJ-155 and authorized the Administrative Office of the Courts to prepare, publish, and update a list of the amounts of the</p>

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Exemptions From the Enforcement of Judgments (revise form EJ-155)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
					exemptions. The list of exemptions is available from the courts and on the California Court Web site.
3.	Ms. Kim Hubbard President Orange County Bar Association Irvine, California	AM	Y	<p>1. Form EJ-155 should include the relevant C.C.P., § 703 exemption statutes with an asterisk or some other notation indicating that such section applies only in a bankruptcy case. Without references to the C.C.P., § 703 exemption statutes, EJ-155 seems far from complete.</p> <p>2. The disclaimer in form EJ-155 regarding the amount of exemptions should note that some exemption dollar amounts do not adjust; hence, insert “Except as otherwise provided,” at the beginning of the last sentence.</p> <p>Likewise, the two lists required by C.C.P., § 703.150 should be similarly qualified by inserting “except as otherwise provided” at the beginning of the second sentence in the second paragraph.</p> <p>3. There are some typographical errors in EJ-155:</p> <p>a. The comma after references to “C.C.P.” or “Code Civ. Proc.” should be deleted; and</p> <p>b. Page 2 of form EJ-155, [has] an extra return after § following “Furniture....”</p>	<p>1. Form EJ-155 refers to the new list of dollar amounts of exemptions. This list is separated into (1) state law exemptions, and (2) bankruptcy in lieu exemptions.</p> <p>2. This disclaimer has been added.</p> <p>This change is not necessary. The list presently contains a footnote indicating the exemption that is not subject to the adjustments made every three years.</p> <p>3. The committee agreed.</p> <p>This has been corrected.</p> <p>This was corrected before the revised form became effective.</p>
4.	Kristy Johnson Associate Information	AM	N	1. On form EJ-155, page 1, in the second column, under Business: “tools of the trade,” the item doesn't	1. The committee agreed; this has been corrected.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

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Exemptions From the Enforcement of Judgments (revise form EJ-155)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Systems Analyst California Department of Child Support Services Sacramento, California			have the dotted line all the other ones have 2. On the EJ-155, page 2: In the left column, the very first 8 lines shouldn't be there. They're a repeat of the lines in about the middle of the right column.	2. The committee agreed; these lines have been deleted.
5.	Mr. Leonard Sacks Attorney at Law Granada Hills, California	A	N	Agree with proposed changes.	No response required.